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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ROBERT MATUS, individually, and on  
behalf of all others similarly situated;

Plaintiffs,

vs.

PREMIUM NUTRACEUTICALS, LLC.,  
a Georgia Corporation; and DOES 1-20,  
Inclusive,

Defendants.

Case No. 5:15-cv-01851-DDP (DTB)

**FIRST AMENDED CLASS ACTION  
COMPLAINT**

**JURY TRIAL DEMANDED**

**I. INTRODUCTION**

1. Vydox is a purported “male enhancement” product that promises outlandish results and does not deliver. Unfortunately, Defendants go further than just promising outlandish results; Defendants knowingly put forth false and misleading information.

2. Defendants promise:

✓ *Powerful & Effective*

- ✓ *Male Virility Supplement*
- ✓ *Bigger, Firmer & Stronger Erections*
- ✓ *Substantial Increase in Sexual Drive and Stamina*
- ✓ *Increased Self Confidence*
- ✓ *Satisfaction for your Sexual Partner*
- ✓ *Premium Formula = Premium Results*
- ✓ *Stronger Libido*
- ✓ *No Side Effects*
- ✓ *Vydox was formulated around the same principles that Viagra, Cialis, and Levitra were developed (decreasing PDE-5 enzyme levels), but with an all-natural formulation.*

3. Defendant makes the aforementioned promises that are welcomed by consumers, or would be welcomed by consumers, were it not for the fact that Vydox does not and cannot deliver the promised results. Defendant profits greatly from its consumer deception as a month supply of Vydox costs unwary consumers upwards of \$84.95—for a completely worthless product.

4. Accordingly, ROBERT MATUS (“Plaintiff”) brings this lawsuit to recover the money taken by this practice.

## **II. THE PARTIES**

### **A. Plaintiffs**

5. ROBERT MATUS (“Plaintiff”) is a resident of San Bernardino County, California who purchased Vydox for approximately \$30.00, from an internet reseller, and agent for Defendant, for his personal use.

### **B. Defendants**

6. PREMIUM NUTRACEUTICALS, LLC. (“Defendant”) is the manufacturer, marketer, and seller of Vydox, with its principal place of business in Georgia. Defendant does business in California and in nearly every state.

1           **C.    Doe Defendants**

2           7.     Plaintiff does not know the true names or capacities of the persons or  
3 entities sued herein as DOES 1 to 20, and therefore sue such defendants by such  
4 fictitious names. Plaintiff is informed and believes and thereon alleges that each of the  
5 DOE defendants is in some manner legally responsible for the damages suffered by  
6 Plaintiff and the members of the class as alleged herein. Plaintiff will amend this  
7 Complaint to set forth the true names and capacities of these defendants when they have  
8 been ascertained, along with appropriate charging allegations, as may be necessary.  
9

10                           **III.   JURISDICTION AND VENUE**

11           8.     This Court has jurisdiction over all causes of action asserted herein  
12 pursuant to the California Constitution.

13           9.     Venue is proper in this Court because a substantial portion of the events  
14 giving rise to this Complaint took place in this County, and because Defendant has  
15 received substantial compensation from sales in this County. Defendant claims that  
16 1.4% of its total revenue is derived from California sales. Defendant admits that its  
17 products are sold to California residents. Each Defendant knowingly engages in  
18 activities directed at consumers in this County, and each of the Defendants obtains  
19 substantial benefits from the Defendant's common scheme perpetrated in this County.  
20 Plaintiff has filed concurrently with his original Complaint in this matter the declaration  
21 of venue required by Civil Code Section 1780(d). (Attached thereto as Exhibit 1).

22           10.    Defendant and other out-of-state participants can be brought before this  
23 Court pursuant to California's "long-arm" jurisdictional statute.  
24

25                           **IV.   FACTS**

26           11.    Plaintiff purchased Vydox in April of 2015 over the internet because he  
27 hoped to obtain the results that are promised by Defendant (these promises are  
28 delineated in paragraph 12). Prior to purchasing Vydox, Plaintiff read, reviewed, relied

1 upon, and believed the false claims made in the advertising of Vydox, the product  
2 packaging, and the Vydox website.

3 12. Defendant induces unwitting consumers into believing that Vydox  
4 increases: penis firmness, sexual desire, sexual duration, and sexual virility. Vydox  
5 even claims to be on par with prescription drugs such as Viagra and Cialis.  
6 Additionally, Defendant falsely claims that Vydox:

7 ✓ *Powerful & Effective*

8 ✓ *Male Virility Supplement*

9 ✓ *Bigger, Firmer & Stronger Erections*

10 ✓ *Substantial Increase in Sexual Drive and Stamina*

11 ✓ *Increased Self Confidence*

12 ✓ *Satisfaction for your Sexual Partner*

13 ✓ *Premium Formula = Premium Results*

14 ✓ *Stronger Libido*

15 ✓ *No Side Effects*

16 ✓ *Vydox was formulated around the same principles that Viagra, Cialis, and*  
17 *Levitra were developed (decreasing PDE-5 enzyme levels), but with an all-*  
18 *natural formulation.*

19 13. The preceding claims are false. Indeed, Defendant has no competent and  
20 reliable evidence to substantiate claims that Vydox produces results. Additionally,  
21 Defendant cannot substantiate claims that Vydox increases penis size. Furthermore,  
22 Defendant is or should be aware that Vydox does not produce and is not proven to  
23 produce results as advertised. Instead, Defendant makes these false advertising claims  
24 in an effort to lure unwary consumers into paying an inflated price for a worthless  
25 product. Plaintiff is aware of his burden of proof and will show at trial that each of the  
26 aforementioned claims is false. Defendant's awareness of these false statements is not  
27 stated in an attempt to shift the burden of proof, it is simply stated to show that  
28 Defendant's conduct is willful and malicious in that Defendant has or should have full

1 knowledge that the claims are false. Regarding Plaintiff's burden of proof, both the  
2 Federal Trade Commission and the Mayo Clinic have recognized that products, such as  
3 Defendant's, do not work. "No herbal or all natural substance has been shown to be  
4 effective [for male enhancement]." See [www.consumer.ftc.gov/articles/0202-phony-](http://www.consumer.ftc.gov/articles/0202-phony-cures-erectile-dysfunction)  
5 [cures-erectile-dysfunction](http://www.consumer.ftc.gov/articles/0202-phony-cures-erectile-dysfunction) and [www.mayoclinic.org](http://www.mayoclinic.org).

6 14. Each of the defendants participated in and/or profited from making or  
7 promulgating these false claims.

8 15. Every year tens of millions of people suffer from erectile dysfunction. The  
9 effects of erectile dysfunction are not just physical. Erectile dysfunction touches  
10 numerous aspects of the sufferer's life. Erectile dysfunction causes mental and  
11 emotional trauma not only to the person with erectile dysfunction, but also to his  
12 partner.

13 16. The leading causes of erectile dysfunction are: vascular disease, diabetes,  
14 neurological conditions, Peyronie's disease, venous leak, and psychological conditions.  
15 Defendant specifically targets members of each of these categories. The most notable  
16 of these groups are the elderly, those suffering from physical conditions, such as  
17 diabetes, depression, high blood pressure, and those with fertility issues. The promised  
18 results would be welcomed by any of the sufferers that Defendant targets; sadly, the  
19 claims are worthless. Vydox does not produce the miraculous promised results.

20 17. Plaintiff used Vydox as directed but did not obtain the results promised.  
21 Vydox did not increase the firmness of his erection, it did not increase the size of his  
22 erection, it did not increase his sex drive, and it did not produce a stronger libido. By  
23 failing to deliver the promised results, it is clear that Vydox, and over the counter  
24 supplement, is not in the same category as prescription erectile dysfunction medicine.  
25 In reality, Vydox does not: (1) increase penis firmness; (2) increase erection size; (3)  
26 increase sex drive; (4) produce a stronger libido; or (5) belong in the same category as  
27 prescription drugs such as Viagra or Cialis. Vydox was worthless to Plaintiff. As such,

1 Plaintiff—like every other class member—has suffered significant injury by purchasing  
2 and using Vydox when it was of no value.

3 18. Defendant sells Vydox for upwards of \$84.95 per package based on the  
4 preceding false claims. As a result, Defendant has wrongfully taken hundreds of  
5 thousands of dollars from California consumers.

6  
7 **V. CLASS ACTION ALLEGATIONS**

8 19. Plaintiff brings this class action for damages and other monetary relief on  
9 behalf of the following class:

10 All persons located within the United States who purchased  
11 Vydox at any time during the four years preceding the filing  
12 of this complaint through the date of trial in this action.

13 20. Excluded from the Classes are governmental entities, Defendant, any entity  
14 in which Defendant has a controlling interest, and Defendant's officers, directors,  
15 affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries,  
16 and assigns, and individuals bound by any prior settlement involving Vydox. Also  
17 excluded from the Class is any judge, justice, or judicial officer presiding over this  
18 matter and the members of their immediate families and judicial staff.

19 21. The proposed Classes are so numerous that individual joinder of all their  
20 members is impracticable. Due to the nature of the trade and commerce involved,  
21 however, Plaintiff believes that the total number of Class members is at least in the tens  
22 of thousands and members of the Classes are numerous and geographically dispersed  
23 across California and the United States. While the exact number and identities of the  
24 Class members are unknown at this time, such information can be ascertained through  
25 appropriate investigation and discovery. The disposition of the claims of the Class  
26 members in a single class action will provide substantial benefits to all parties and to the  
27 Court.

28 ///

1           22. There is a well-defined community of interest in the questions of law and  
 2 fact involved affecting the plaintiff class and these common questions predominate over  
 3 any questions that may affect individual Class members. Common questions of fact and  
 4 law include, but are not limited to, the following:

- 5           a. Whether Defendant's efficacy claims are accurate;
- 6           b. Whether Defendant's efficacy claims are properly substantiated;
- 7           c. Whether Defendant has falsely represented that Vydox has uses and  
 8 benefits which it does not have;
- 9           d. Whether Defendant knew that its efficacy claims were false;
- 10          e. Whether Defendant's conduct constitutes a violation of the  
 11 Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*);
- 12          f. Whether Defendant's conduct constitutes a violation of California's  
 13 false advertising law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*);
- 14          g. Whether Defendant's conduct constitutes an unfair, unlawful, and/or  
 15 fraudulent business practice in violation of California's unfair  
 16 competition law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);
- 17          h. Whether Plaintiff and Class members are entitled to compensatory  
 18 damages, and if so, the nature of such damages; and
- 19          i. Whether Plaintiff and Class members are entitled to restitutionary  
 20 relief;

21           23. Plaintiff's claims are typical of the claims of the members of the Class.  
 22 Plaintiff and all members of the Class have been similarly affected by Defendant's  
 23 common course of conduct since they all relied on Defendant's representations  
 24 concerning Vydox and purchased it based on those representations.

25           24. Plaintiff will fairly and adequately represent and protect the interests of the  
 26 Class. Plaintiff has retained counsel with substantial experience in handling complex  
 27 class action litigation. Plaintiff and his counsel are committed to vigorously  
 28 prosecuting this action on behalf of the Class and have the financial resources to do so.



1 Plaintiff has retained a law firm who is widely recognized as one of the most successful  
 2 and effective class action litigators in California, and whose victories have been  
 3 publicized on CNN, Fox News, MSNBC, and nearly every major California newspaper.

4 25. Plaintiff and the members of the Class suffered, and will continue to suffer,  
 5 harm as a result of Defendant's unlawful and wrongful conduct. A class action is  
 6 superior to other available methods for the fair and efficient adjudication of the present  
 7 controversy. Individual joinder of all members of the class is impracticable. Even if  
 8 individual class members had the resources to pursue individual litigation, it would be  
 9 unduly burdensome to the courts in which the individual litigation would proceed.  
 10 Individual litigation magnifies the delay and expense to all parties in the court system of  
 11 resolving the controversies engendered by Defendant's common course of conduct.  
 12 The class action device allows a single court to provide the benefits of unitary  
 13 adjudication, judicial economy, and the fair and efficient handling of all class members'  
 14 claims in a single forum. The conduct of this action as a class action conserves the  
 15 resources of the parties and of the judicial system and protects the rights of the class  
 16 members. Furthermore, for many, if not most, a class action is the only feasible  
 17 mechanism that allows an opportunity for legal redress and justice.

18 26. Adjudication of individual class members' claims with respect to  
 19 Defendant would, as a practical matter, be dispositive of the interests of other members  
 20 not parties to the adjudication, and could substantially impair or impede the ability of  
 21 other class members to protect their interests.

## 22 **VI. CAUSES OF ACTION**

### 23 **FIRST CAUSE OF ACTION**

#### 24 **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT**

#### 25 **(CAL. CIV. CODE §§ 1750, ET SEQ.)**

26 **(By Plaintiff and on Behalf of the Class Against Defendant)**

27 27. Plaintiff incorporates by this reference the allegations contained in the  
 28



1 paragraphs above as if fully set forth herein.

2 28. Plaintiff has standing to pursue this cause of action because Plaintiff has  
3 suffered injury in fact and has lost money as a result of Defendant's actions as set forth  
4 herein. Specifically, Plaintiff purchased Vydox in reliance on Defendant's marketing  
5 claims with respect to efficacy. Plaintiff used Vydox as directed, but it did not work as  
6 advertised and was not of the quality and standard advertised by Defendant.

7 29. Defendant has engaged in and continues to engage in business practices in  
8 violation of California Civil Code §§ 1750, *et seq.* (the "Consumers Legal Remedies  
9 Act") by making false and unsubstantiated representations concerning the efficacy of  
10 Vydox. These business practices are misleading and/or likely to mislead consumers.

11 30. Defendant has engaged in deceptive acts or practices intended to result in  
12 the sale of Vydox in violation of Civil Code § 1770. Defendant knew and/or should  
13 have known that its representations of fact concerning the efficacy of Vydox were  
14 material and likely to mislead the public. Defendant affirmatively misrepresented that  
15 Vydox was of a certain standard and quality with certain benefits which it did not have.

16 31. Defendant's conduct alleged herein violates the Consumers Legal  
17 Remedies Act, including but not limited to, the following provisions: (1) using  
18 deceptive representations in connection with goods or services in violation of Civil  
19 Code § 1770(a)(4); (2) representing that goods or services have sponsorship, approval,  
20 characteristics, ingredients, uses, benefits, or quantities which they do not have in  
21 violation of Civil Code § 1770(a)(5); and/or (3) advertising goods or services with  
22 intent not to sell them as advertised in violation of Civil Code § 1770(a)(9). As a direct  
23 and proximate result of Defendant's conduct, as set forth herein, Defendant has  
24 received ill-gotten gains and/or profits, including but not limited to, money. Therefore,  
25 Defendant has been unjustly enriched.

26 32. There is no other adequate remedy at law, and Plaintiff and Class members  
27 will suffer irreparable harm unless Defendant's conduct is enjoined.

28 33. Plaintiff's counsel mailed to Defendant, by certified mail, return receipt

1 requested, the written notice required by Civil Code Section 1782(a) on July 28, 2015.  
 2 A copy of this letter was attached to Plaintiff's Complaint as Exhibit Two. As  
 3 Defendant has now refused to conform its actions to the requirements of the Consumer  
 4 Legal Remedies Act, Plaintiff now amends his Complaint to seek damages pursuant to  
 5 the Consumer Legal Remedies Act. As part of the amendment, considering the  
 6 removal of the action to Federal Court, Plaintiff is withdrawing his demand for  
 7 injunctive relief. Plaintiff's demand for injunctive relief will be re-filed in California  
 8 state court.

9 34. The declaration of venue required by Civil Code § 1780(d) was attached to  
 10 Plaintiff's Complaint as Exhibit One.

11 35. Defendant's wrongful business practices constituted, and constitute, a  
 12 continuing course of conduct in violation of the Consumer Legal Remedies Act since  
 13 Defendant is still representing that Vydox has characteristics, uses, benefits, and  
 14 abilities which are false and misleading, and have injured Plaintiff and the Class.

## 15 **SECOND CAUSE OF ACTION**

### 16 **VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW**

#### 17 **(CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.)**

#### 18 **(By Plaintiff and on Behalf of the Class Against Defendant)**

19 36. Plaintiff incorporates by this reference the allegations contained in the  
 20 paragraphs above as if fully set forth herein.

21 37. Plaintiff has standing to pursue this cause of action because Plaintiff has  
 22 suffered injury in fact and has lost money as a result of Defendant's actions as set forth  
 23 herein. Specifically, Plaintiff purchased Vydox in reliance on Defendant's marketing  
 24 claims. Plaintiff used Vydox as directed, but it did not work as advertised and did not  
 25 provide any of the promised benefits.

26 38. Defendant has engaged in false advertising as it has disseminated false  
 27 and/or misleading representations about Vydox.

28 39. Defendant knew or should have known by exercising reasonable care that

its representations were false and/or misleading. During the Class Period, Defendant engaged in false advertising in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*, by misrepresenting in its advertising and marketing of Vydox to Plaintiff, Class members, and the consuming public that Vydox is effective.

40. Each of the aforementioned representations alleged in this Complaint was false and misleading because Vydox is not of the standard, quality or grade advertised, and is in reality, ineffective.

41. By disseminating and publishing these statements in connection with the sale of Vydox, Defendant has engaged in and continues to engage in false advertising in violation of Bus. & Prof. Code §§ 17500, *et seq.*

42. As a direct and proximate result of Defendant's conduct, as set forth herein, Defendant has received ill-gotten gains and/or profits, including but not limited to, money. Therefore, Defendant has been unjustly enriched. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff requests restitution and restitutionary disgorgement for all sums obtained in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*

43. Plaintiff seeks restitution, and restitutionary disgorgement of Defendant's ill-gotten gains as specifically provided in Cal. Bus. & Prof. Code § 17535.

### **THIRD CAUSE OF ACTION**

#### **UNLAWFUL, FRAUDULENT & UNFAIR BUSINESS PRACTICES**

##### **(CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.*)**

##### **(By Plaintiff and on Behalf of the Class Against Defendant)**

44. Plaintiff incorporates by this reference the allegations contained in the paragraphs above as if fully set forth herein.

45. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff purchased Vydox in reliance on Defendant's marketing claims. Plaintiff used Vydox as directed, but it did not work as advertised and was not of the standard, quality and grade advertised.

1           46. Defendant's actions as alleged in this Complaint constitute an unfair or  
2 deceptive business practice within the meaning of California Business and Professions  
3 Code §§ 17200, *et seq.*, in that Defendant's actions are unfair, unlawful, and fraudulent,  
4 and because Defendant has made unfair, deceptive, untrue, or misleading statements in  
5 advertising media, including the Internet, within the meaning of California Business  
6 and Professions Code §§ 17200, *et seq.*

7           47. Defendant knew or should have known by exercising reasonable care that  
8 its representations were false and/or misleading. During the Class Period, Defendant  
9 engaged in unfair, unlawful, and fraudulent business practices in violation of Cal. Bus.  
10 & Prof. Code §§ 17200, *et seq.*, by misrepresenting in its advertising and marketing of  
11 Vydox to Plaintiff, Class members, and the consuming public that, Vydox was  
12 effective.

13           48. Each of the aforementioned representations alleged in this Complaint was  
14 false and misleading because Vydox is not of the standard, quality or grade advertised.

15           49. Defendant's business practices, as alleged herein, are unfair because they  
16 offend established public policy and/or are immoral, unethical, oppressive,  
17 unscrupulous, and/or substantially injurious to consumers in that consumers are misled  
18 by the claims made with respect to Vydox as set forth herein.

19           50. Defendant's business practices, as alleged herein, are unlawful because  
20 they violate the Consumer Legal Remedies Act and False Advertising Law.

21           51. Defendant's business practices, as alleged herein, are fraudulent because  
22 they are likely to, and did, deceive customers—including Plaintiff and members of the  
23 Class—into believing that Vydox has characteristics and benefits it does not have.

24           52. Defendant's wrongful business practices constituted, and constitute, a  
25 continuing course of conduct of unfair competition since Defendant is marketing and  
26 selling Vydox in a manner likely to deceive the public.

27           53. As a direct and proximate result of Defendant's wrongful business  
28 practices in violation of Business and Professions Code §§ 17200, *et seq.*, Plaintiff and

1 members of the Class have suffered economic injury by losing money as a result of  
 2 purchasing Vydox. Plaintiff and members of the Class would not have purchased or  
 3 would have paid less for Vydox had they known that it was not as represented.

4 54. Pursuant to Business and Professions Code § 17203, Plaintiff and the Class  
 5 seek an order requiring Defendant to make full restitution of all moneys they  
 6 wrongfully obtained from Plaintiff and the Class.

#### 7 **FOURTH CAUSE OF ACTION**

#### 8 **NEGLIGENT MISREPRESENTATION**

#### 9 **(By Plaintiff and on Behalf of the Class Against Defendant)**

10 55. Plaintiff incorporates by this reference the allegations contained in the  
 11 paragraphs above as if fully set forth herein.

12 56. During the Class Period, Defendant misrepresented to consumers through  
 13 the advertising, marketing, and sale of Vydox that use of Vydox would increase penis  
 14 firmness, increase sexual arousal, and provide greater satisfaction to one's sexual  
 15 partner.

16 57. Defendant's misrepresentations were false because Vydox does increase  
 17 penis firmness, increase sexual duration, or provide greater satisfaction to one's sexual  
 18 partner. In fact, no competent, reliable scientific research can support Defendant's  
 19 claims and is actually contrary to Defendant's claims.

20 58. Defendant's misrepresentations were material because a reasonable  
 21 consumer would attach importance to them in determining whether to purchase and use  
 22 Vydox.

23 59. Defendant's material misrepresentations regarding the efficacy of Vydox  
 24 are false and made without reasonable grounds for believing them to be true.

25 60. Defendant made material misrepresentations regarding Vydox with the  
 26 intent to induce Plaintiff and Class members to purchase and use Vydox.

27 61. Plaintiff and Class members reasonably relied on Defendant's material  
 28 misrepresentations in choosing to purchase and use Vydox.

62. As a direct and proximate result of Defendant's conduct, Plaintiff and Class members have incurred damages in an amount to be proven at trial. Plaintiff and Class members are not seeking damages arising out of personal injuries.

## **FIFTH CAUSE OF ACTION**

### **FRAUD**

#### **(By Plaintiff and on Behalf of the Class Against Defendant)**

63. Plaintiff incorporates by this reference the allegations contained in the paragraphs above as if fully set forth herein.

64. During the Class Period, Defendant misrepresented to consumers through the advertising, marketing, and sale of Vydox that use of Vydox would increase penis firmness, increase sexual arousal, and provide greater satisfaction to one's sexual partner.

65. Defendant's misrepresentations were false because Vydox does increase penis firmness, increase sexual duration, or provide greater satisfaction to one's sexual partner. In fact, no competent, reliable scientific research can support Defendant's claims and is actually contrary to Defendant's claims.

66. Defendant's actions constitute fraud because: (1) the statement regarding efficacy of Vydox, outlined herein, are material facts; (2) Defendant is or should be aware that such facts are false; (3) Defendant's actions were designed to deceive consumers and did deceive consumers into buying a worthless product; (4) Plaintiff and members of the Class relied on Defendant's false statements in purchasing Vydox; and (5) Plaintiff and the Class suffered an injury in fact-each lost money in purchasing a worthless product.

67. Defendant's misrepresentations were material because a reasonable consumer would attach importance to them in determining whether to purchase and use Vydox.

68. Defendant's material misrepresentations regarding the efficacy of Vydox are false and made without reasonable grounds for believing them to be true.

69. Defendant made material misrepresentations regarding Vydox with the intent to induce Plaintiff and Class members to purchase and use Vydox.

70. Plaintiff and Class members reasonably relied on Defendant's material misrepresentations in choosing to purchase and use Vydox.

71. Who: Plaintiff and the Class relied on Defendant's material statements in purchasing Vydox. As a result, Plaintiff and the Class suffered an injury in fact-loss of purchase price. Defendant, through advertising and labeling of Vydox made false statements in an effort to lure consumers to purchase Vydox, as outlined herein.

72. What: Defendant made false statements regarding the efficacy of Vydox in an effort to deceive Plaintiff and the Class. Defendant was successful in that Plaintiff and the Class justifiably relied on the false statements made by Defendant, as outlined herein.

73. When: Plaintiff purchased Vydox in April of 2015 after relying on false statements made by Defendant.

74. As a direct and proximate result of Defendant's conduct, Plaintiff and Class members have incurred damages in an amount to be proven at trial. Plaintiff and Class members are not seeking damages arising out of personal injuries.

## PRAAYER FOR RELIEF

WHEREFORE, Plaintiff and members of the Class request that the Court enter an order or judgment against Defendant, and each of them as named in the future, as follows:

1. For an order certifying the Class, appointing Plaintiff and his counsel to represent the Class, and notice to the Class to be paid by Defendant;

2. For damages suffered by Plaintiff and Class members under California Business and Professions Code Sections 17200, 17500, et seq.;

3. For restitution to Plaintiff and Class members of all monies wrongfully obtained by Defendant;





**CERTIFICATE OF SERVICE**

I hereby certify that on October 5, 2015, I electronically filed the foregoing **FIRST AMENDED CLASS ACTION COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ Ryan M. Ferrell

Ryan M. Ferrell